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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/805,313	03/13/01	GORDON G	GOR05 P-300A

EXAMINER	
GREEN, B	
ART UNIT	**PAPER NUMBER**
3628	4

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Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary	Application No. 09/805,313	Applicant(s)	
	Examiner	Group Art Unit 3628	

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Response

A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a response be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for response is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication .
- Failure to respond within the set or extended period for response will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

☐ Responsive to communication(s) filed on _____.

☐ This action is **FINAL.**

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle,* 1935 C.D. 1 1; 453 O.G. 213.

Disposition of Claims

☒ Claim(s) 1-17 is/are pending in the application.

Of the above claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-17 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 11 9(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 1 7.2(a)).

*Certified copies not received: _____.

Attachment(s)

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 3

☐ Interview Summary, PTO-413

☒ Notice of References Cited, PTO-892

☐ Notice of Informal Patent Application, PTO-152

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Other _____

Office Action Summary

Drawings

1. The drawings are objected to because in figures 1-4, each of the figures must be separately labeled, i.e. Fig. 1a, Fig. 1b, etc. Correction is required.

Claim Rejections - 35 USC § 112

Claims 15-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 15-17, line 1, there is no antecedent basis for "the first and second indicia".

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321© may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1-17 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,226,961. Although the conflicting claims are not identical, they are not patentably distinct from each other because claim 1 includes the limitations of claims 1-17.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 1-3 and 5-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Channer (Des. 403,813).

Channer shows in figures 1-8 a sponge scrubber that includes raised indicia thereon. The indicia is considered to be for indicating the article to be cleaned, i.e. the cat. Channer does not disclose the use of more than one sponge scrubbers. It would have been obvious to one in the art to provide two or more scrubbers with indicia thereon since this would allow each scrubber to be identified for each particular animal, i.e. cat, dog, horse, pig, etc. In regard to claim 3, as broadly defined, the letters (CAT) are considered to be the symbols. Further, it is considered within one skilled in the art to placed any type of indicia on the scrubber as desired. In regard to claims 10 and 11, it is within one skilled in the art to make the indicia a different color from the scrubber since this would allow the indicia to be seen in a better manner and embedding the indicia would make the indicia more durable. In regard to claim 12, the method used in making the article is not given any patentable weight in an article claim. Further, the idea of printing indicia is conventional.

6. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Channer as applied to claim 1 above, and further in view of Gray (Des. 182,116).

Channer discloses the applicant's basic inventive concept except for making the outline of the scrubber in the shape of the cleaning article. Gray shows in figures 1-2 the idea of making the outline of a sponge in the shape of an article, i.e. JOY. In view of the teachings of Gray it would have been obvious to one in the art to modify Channer by making the outline in the shape of a cleaning article (a cat) since this would create a more amusing and aesthetically pleasing display.

7. Claims 1-3 and 5-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ruth (Des. 119,772).

Ruth shows in the figure a towel that includes indicia thereon. The indicia is considered to be for indicating the article to be cleaned, i.e. the dishes, pot, etc. Ruth does not disclose the use of more than one towel. It would have been obvious to one in the art to provide two or more towels with indicia thereon since this would allow other articles to be shown and would create a set of different towels which are more aesthetically pleasing. In regard to claim 2 and 7, it is considered within one skilled in the art to vary the text as desired, i.e. the text could indicate any desired message such as dishes, stove, cat, etc. In regard to claim 5, raised indicia is known, it would have been obvious to make the indicia raised since this would create a more aesthetically pleasing display. In regard to claim, it is within one skilled in the art to embed the indicia since this would

make the indicia more durable. In regard to claim 12, the method used in making the article is not given any patentable weight in an article claim. Further, the idea of printing indicia is conventional.

8. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ruth as applied to claim 1 above, and further in view of Gray (Des. 182,116).

Ruth discloses the applicant's basic inventive concept except for making the outline of the scrubber in the shape of the cleaning article. Gray shows in figures 1-2 the idea of making the outline of a sponge in the shape of an article, i.e. JOY. In view of the teachings of Gray it would have been obvious to one in the art to modify Ruth by making the outline in the shape of a cleaning article since this would create a more amusing and aesthetically pleasing display.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Haber teaches the use of a wiper device.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian K. Green whose telephone number is (703) 308-1011.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2168.

Brian K. Green

BRIAN K. GREEN
PRIMARY EXAMINER

bkg

Sept. 20, 2001